

5. In response to paragraph 5, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 5 of the Complaint.

6. In response to paragraph 6, this defendant admits the allegations.

FACTUAL ALLEGATIONS

7. In response to paragraph 7, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 7 of the Complaint.

8. In response to paragraph 8, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 8 of the Complaint.

9. In response to paragraph 9, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 9 of the Complaint.

10. In response to paragraph 10, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 10 of the Complaint.

11. In response to paragraph 11, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 11 of the Complaint.

12. In response to paragraph 12, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 12 of the Complaint.

13. In response to paragraph 13, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 13 of the Complaint.

14. In response to paragraph 14, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 14 of the Complaint.

15. In response to paragraph 15, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 15 of the Complaint.

16. In response to paragraph 16, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 16 of the Complaint.

17. In response to paragraph 17, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 17 of the Complaint.

18. In response to paragraph 18, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 18 of the Complaint.

19. In response to paragraph 19, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 19 of the Complaint.

20. In response to paragraph 20, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 20 of the Complaint.

21. In response to paragraph 21, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 21 of the Complaint.

22. In response to paragraph 22, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 22 of the Complaint.

23. In response to paragraph 23, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 23 of the Complaint.

24. In response to paragraph 24, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 24 of the Complaint.

25. In response to paragraph 25, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 25 of the Complaint.

26. In response to paragraph 26, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 26 of the Complaint.

27. In response to paragraph 27, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 27 of the Complaint.

28. In response to paragraph 28, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 28 of the Complaint.

29. In response to paragraph 29, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 29 of the Complaint.

30. In response to paragraph 30, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 30 of the Complaint.

31. In response to paragraph 31, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 31 of the Complaint.

32. In response to paragraph 32, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 32 of the Complaint.

33. In response to paragraph 33, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 33 of the Complaint.

34. In response to paragraph 34, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 34 of the Complaint.

35. In response to paragraph 35, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 35 of the Complaint.

DAMAGES

36. In response to paragraph 36, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 36 of the Complaint.

37. In response to paragraph 37, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 37 of the Complaint.

38. In response to paragraph 38, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 38 of the Complaint.

39. In response to paragraph 39, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 39 of the Complaint.

40. In response to paragraph 40, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 40 of the Complaint.

41. In response to paragraph 41, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 41 of the Complaint.

42. In response to paragraph 42, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 42 of the Complaint.

CLASS ALLEGATIONS

43. In response to paragraph 43, this defendant realleges and incorporates its answers to paragraphs 1-42 as though fully set forth herein.

44. In response to paragraph 44, this defendant denies this allegation.

45. In response to paragraph 45, this defendant denies this allegation.

46. In response to paragraph 46, this defendant denies this allegation.

47. In response to paragraph 47, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 47 of the Complaint.

48. In response to paragraph 48, this defendant admits this allegation.

A. Numerosity

49. In response to paragraph 49, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 49 of the Complaint.

50. In response to paragraph 50, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 50 of the Complaint.

51. In response to paragraph 51, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 51 of the Complaint.

52. In response to paragraph 52, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 52 of the Complaint.

B. Commonality and Predominance

53. In response to paragraph 53, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 53 of the Complaint.

54. In response to paragraph 54, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 54 of the Complaint.

C. Typicality

55. In response to paragraph 55, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 55 of the Complaint.

D. Superiority and Manageability

56. In response to paragraph 56, this defendant denies these allegations.

57. In response to paragraph 57, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 57 of the Complaint.

58. In response to paragraph 58, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 58 of the Complaint.

59. In response to paragraph 59, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 59 of the Complaint.

E. Adequate Representation

60. In response to paragraph 60, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 60 of the Complaint.

61. In response to paragraph 61, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 61 of the Complaint.

62. In response to paragraph 62, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 62 of the Complaint.

CLAIMS FOR RELIEF

COUNT I:

Defendant's Violations of 15 U.S.C. § 1681b(f) (On behalf of Plaintiffs and the Members of the Putative Class)

63. In response to paragraph 63, this defendant realleges and incorporates its answers to paragraphs 1-62 as though fully set forth herein.

64. In response to paragraph 64, this defendant admits this allegation.

65. In response to paragraph 65, this defendant admits this allegation.

66. In response to paragraph 66, this defendant denies that it accessed the credit report without authorization; as to the rest of the allegations contained in this paragraph, this defendant admits these allegations.

67. In response to paragraph 67, this defendant denies this allegation.

68. In response to paragraph 68, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 68 of the Complaint.

69. In response to paragraph 69, this defendant denies this allegation.

70. In response to paragraph 70, this defendant denies this allegation.

71. In response to paragraph 71, this defendant lacks sufficient knowledge or information to determine the truth of the allegations in paragraph 71 of the Complaint.

72. In response to paragraph 72, this defendant denies this allegation.

73. In response to paragraph 73, this defendant denies this allegation.

74. In response to paragraph 74, this defendant denies this allegation.

AFFIRMATIVE AND OTHER DEFENSES

As and for its affirmative defenses to the Complaint, this answering defendant alleges and shows to the court as follows:

1. Plaintiffs are not each a “consumer” as defined by 15 U.S.C. §§ 1681a(c) and (b).
2. Defendant is not a “person” as defined by 15 U.S.C. § 1681a(b)
3. Plaintiffs’ Experian and Trans Union credit reports that Defendant allegedly accessed without authorization are not “consumer reports” as defined by 15 U.S.C. § 1681a(d)(1).
4. Defendant has not violated 15 U.S.C. § 1681b(f) by obtaining Plaintiffs’ Experian and Trans Union credit reports because they had Plaintiffs’ authorization and because they obtained the reports with a permissible purpose as enumerated in the FCRA.
5. Plaintiffs’ did not explicitly advise Defendant that they were not interested in financing which meant Defendant had a legitimate business need for Plaintiff’s credit reports.
6. Defendant did not willfully and maliciously violate 15 U.S.C. § 1681b(f) because they had a permissible purpose for accessing Plaintiffs’ credit reports under the FCRA.
7. Defendants did not negligently violate 15 U.S.C. § 1681b(f) by accessing Plaintiffs’ credit reports because they had a permissible purpose under the FCRA.
8. Plaintiffs were not harmed by Defendant’s conduct.

9. Defendants have not knowingly and systematically obtained consumer credit reports without a permissible purpose as prescribed by the FCRA.
10. Defendant maintains policies and procedures in order to protect consumers' privacy interests and to prevent the unlawful access of consumer credit reports.
11. Plaintiffs' are not entitled to actual statutory and/or punitive damages because Defendant has not engaged in any unlawful conduct.
12. Defendant alleges each and every affirmative defense contained in 15 U.S.C. § 1681 to avoid any claim of waiver in the event discovery reveals a factual basis for these defenses.

WHEREFORE, this answering Defendant prays for judgment as follows:

- A. Dismissing the Complaint on its merits;
- B. For costs and disbursements of this action; and
- C. For any and other further relief that the court may deem just, proper, or equitable.

**PLEASE TAKE NOTICE THAT THIS ANSWERING DEFENDANT DEMANDS THAT
THIS MATTER BE TRIED TO A JURY OF TWELVE**

Dated: 12-14-21

SMITHAMUNDSEN LLC

By: /s/ Molly Koenig

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